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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/006, 997	01/14/98	SHIFF	C PMS241460

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EXAMINER

TRAN. I

ART UNIT
2656

PAPER NUMBER

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DATE MAILED: 04/02/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No. 09/006,999	Applicant(s) Shiff et al.
	Examiner Thuy Vnh Tran	Group Art Unit 2856

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication .
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

Responsive to communication(s) filed on Amendment 01/19/99.

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

Claim(s) 1-9 is/are pending in the application.

Of the above claim(s) _____ is/are withdrawn from consideration.

Claim(s) _____ is/are allowed.

Claim(s) 1, 3-4, 6-8 is/are rejected.

Claim(s) 2, 5, 9 is/are objected to.

Claim(s) _____ are subject to restriction or election requirement.

Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The proposed drawing correction, filed on _____ is approved disapproved.

The drawing(s) filed on _____ is/are objected to by the Examiner.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All Some* None of the CERTIFIED copies of the priority documents have been received.

received in Application No. (Series Code/Serial Number) _____.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

Attachment(s)

Information Disclosure Statement(s), PTO-1449, Paper No(s). _____ Interview Summary, PTO-413

Notice of References Cited, PTO-892 Notice of Informal Patent Application, PTO-152

Notice of Draftsperson's Patent Drawing Review, PTO-948 Other _____

Office Action Summary

Art Unit: 2856

Title: **Apparatus for the separation of cystic parasite forms from water**

Inventors: **Shiff et al.**

Detailed action:

I. Rejections under 35 U.S.C. 102(b)

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that forms the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless--

2. (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
3. Claims 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Leu (U.S. Patent No. 5,866,071).

As to claim 1, regarding a centrifuge tube of particulate material [45] see figures 4a, 4b, 4c; column 2, lines 62-65; column 3, lines 4-9, 27-40.

I. Rejections under 35 U.S.C.103(a)

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained through the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior arts are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negative by the manner in which the invention was made.

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2. Claims 3-4, 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Borchardt et al. (U.S. Patent No. 5,846,439) in view of Leu (U.S. Patent No. 5,866,071).

As to claims 3, 6-8, Borchardt et al. discloses a method of concentrating oocysts

of waterborne parasites including Cryptosporidium from water which comprises a continuous flow centrifuge except for a filtration column of particulate material (see

column 3, lines 64-65; column 5, lines 16-18; column 6, lines 1-2). Leu teaches a

centrifuge tube wherein some media are put for separation of biological substances (see

column 3, lines 4-8 and 27-39; figures 4a, 4b, 4c). It would have been obvious to one of

ordinary skill in the art at the time of the invention to modify the centrifuge system of

Borchardt et al. by adapting a tube column for separating or filtering biological materials

as evident by the teachings of Leu since the existence of the filtering media inside the tube

helps to filter organisms out with good result.

As to claim 4, neither Borchardt et al. nor Leu teaches the use of sand for filtering

particulate material in the fluid. However, it is a well known practice in the art that sand is

very commonly used in the field of water purification. Hence, it would have been obvious

to one of ordinary skill in the art at the time of the invention to utilize sand as the medium

inside the filtering tube of Leu which is adapted to the centrifuge system of Borchardt et

al. for efficiently filtering micro-organisms out.

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III. Objections

Claims 2, 5, 9 are objected to as being dependent upon a rejected based claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

IV. Remarks and conclusion

1. Applicant's arguments filed on January 19th, 1999 have been fully considered but they are moot in view of the new grounds of rejection.
2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuy Vinh Tran whose telephone number is (703) 305-0012. The examiner can normally be reached on Mondays through Fridays from 8:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Hezron Williams, can be reached at (703) 305-4705. The fax phone number for this Group is (703) 308-7382.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4900.

Tran/ab 

March 28th, 1999


Hezron Williams
Supervisory Patent Examiner
Technology Center 2800